Justice Harlan AS HE IS KNOWN to His Boys

A Character Sketch of the Eminent Jurist Written by a Member of His Class in Constitutional Law Which Brings Out a Phase of His Character Differing Materially From That Presented to the World by the Famous Associate Justice of the United States Supreme Court.

By REXFORD L. HOLMES
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So much has been written about Justice Harlan, the jurist, the churchman, and citizen, that it would seem that nearly everyone, not only in Washington, but throughout the United States, must know of him and his work. It yet remains, however, for that portion of the long and eventful life of the great jurist that has been spent as an instructor in one of our noted universities to be described; and it is fitting that such a sketch as this, concerning the educational part of the judge's career, should be obtained from the point of view of his class in constitutional law at the George Washington University. Under his instruction hundreds of young men have studied, many of whom have since become famous in the profession of law, while a few still have that important job uncompleted.

It is not easy to understand why the venerable gentleman is willing to devote so much of the time that is his own, when his presence is not required in the Supreme Court room, to arduous lecturing in the university. Perhaps it is because the grand old man, still youthful at seventy-two, refuses to give up the educational work in which he has so long engaged, fearing to do so would be to acknowledge the encroachment of time, or again it may be that—and this is more probably the true reason—Justice Harlan loves to study and teach the law; loves the university; loves "his boys."

Have you ever attended one of the lectures upon constitutional law which usually form the greater part of Judge Harlan's legal instruction during the second semester of the first year's work? If you have not, then you have not availed yourself of an opportunity that has been eagerly grasped by many who, though non-students, yet enjoy to spend an hour learning more about the Constitution of their country, under such profitable instruction as is there afforded. Many ladies, teachers, some of them, in the Washington schools, have, during the past year, enrolled as students of constitutional law, although they are excused from the quiz or conference. The benefit to them is incalculable and can not but be immediately reflected on their pupils in their own class rooms.

Always on Time

Justice Harlan is always on time to begin his lecture, and frequently comes early enough to listen for a while to Prof. Blair's quiz on sales or to Judge Peele's lecture on bailments. When he appears upon the platform to begin his lecture he is always greeted with a round of applause—and such applause it is!—there can be no question as to its sincerity. Hands are clapped, 200 heels and more are stamped upon the floor, while an occasional "yeep-yeep" from the back row assures the judge that the "fellows" are glad to see him again. And the judge "smiles never a word," but one imagines he is pleased just the same, as he brings out his great vari-colored handkerchief—the best known handkerchief in Washington—adjusts his glasses and the manuscript of his lecture, and announces in tones distinctly judicial that "the gentlemen of the law class will please come to order."

But whatever of judicial dignity may be noticeable at the outset soon wears away, and it is not many minutes until the justice has forgotten his manuscript and carefully prepared notes, and is thundering out to us the principles on which our Government is based, while the fellows listen and laugh and cheer as the judge rams home his points of law. We never realized what a great country we live in, what a glorious Constitution we have—we suspected, but never really knew—until Judge Harlan, in his own way, told us. Now it is that one should know and see the jurist. Away for the time from the cares of the court room, out of the glitter of the social life that he is oftentimes compelled to endure, forgetful of time and place, he gives to his students fifty minutes of such enobling and uplifting and patriotic talk as will remain with them always. He is no longer the jurist, but the citizen; he has left off the garb of the statesman and become the commoner; he has, without dropping an inch, become one of "the boys."

The Man Behind the Jurist

Then there is the little "after-meeting" that takes place at the close of the lecture, when the fellows gather around him on the platform and ply him with vexed questions on the Constitution, and while learning the point of law involved, find also at close range something which is greater, the elements that go to make up the citizen and the Christian gentleman, and unconsciously appropriate the knowledge gained into their own lives.

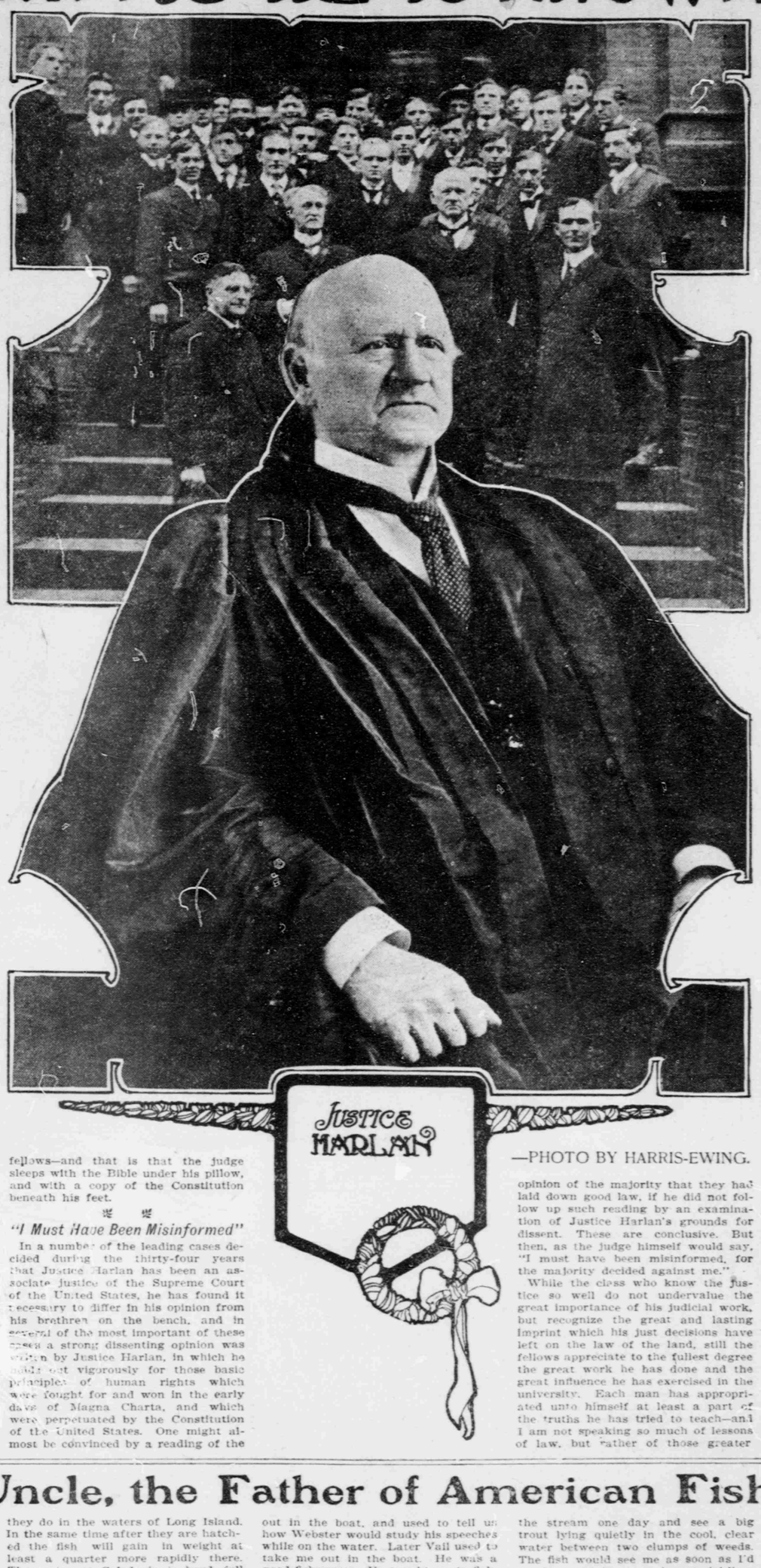
A third-year man, I think it was, who, at the first of the year, referred to the jurist in a manner that could not be better expressed. He said, "I consider Justice Harlan the highest type of an American citizen." What mere words could say more? and they represent the opinion of all the men in the law school and in the entire university.

Justice Harlan's activity as a Presbyterian is well known. In fact, it was rumored in the press during the past winter that he might give up his work on the bench in order to further a proposed plan for building on the site of the New York Avenue Presbyterian Church, of which he is one of the board of elders, a great Presbyterian cathedral, after an amalgamation of his own church with the Assembly's Presbyterian Church had been effected. While it is not probable that the jurist will resign for this work of building a church, yet it is known that he has the scheme much at heart, and if the union of the two churches mentioned takes place it is expected that Justice Harlan's will be no small part of the work done in erecting the proposed cathedral on the historic grounds now occupied by his own church. There was another rumor—just a mere suspicion—current about the university recently, which I will mention in strict confidence, but which must remain between you and me—and the fellows—and that is that the judge sleeps with the Bible under his pillow, and with a copy of the Constitution beneath his feet.

"I Must Have Been Misinformed"

In a number of the leading cases decided during the thirty-four years that Justice Harlan has been an associate justice of the Supreme Court of the United States, he has found it necessary to differ in his opinion from his brethren on the bench, and in several of the most important of these cases a strong dissenting opinion was written by Justice Harlan, in which he holds out vigorously for those basic principles of human rights which were fought for and won in the early days of Magna Charta, and which were perpetuated by the Constitution of the United States. One might almost be convinced by a reading of the opinion of the majority that they had laid down good law, if he did not follow up such reading by an examination of Justice Harlan's grounds for dissent. These are conclusive. But then, as the judge himself would say, "I must have been misinformed, for the majority decided against me."

While the class who know the justice so well do not undervalue the great importance of his judicial work, but recognize the great and lasting imprint which his just decisions have left on the law of the land, still the fellows appreciate to the fullest degree the great work he has done and the great influence he has exercised in the university. Each man has appropriated unto himself at least a part of the truths he has tried to teach—and I am not speaking so much of lessons of law, but rather of those greater questions of citizenship and morality. Can it be doubted also that the earnest Christianity of the older man has been without effect on the younger men who have studied under his instruction? To look at him from the point of view of his class, is to behold him with but one sentiment—that of respect and an almost filial love.



JUSTICE HARLAN

—PHOTO BY HARRIS-EWING.

BELIEVES IN THE BIG STICK

The justice is a firm believer in a strong navy. In one of his lectures he said:

"The Congress shall have power to provide and maintain a navy.

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How the judge hates snobbishness in general, and the British system of peerage in particular, was brought out very strongly one afternoon in his lecture. He was explaining that part of the Constitution which says: "No title of nobility shall be granted by the United States," and in commenting upon it, said:

"Perhaps this won't interest us. 'No title of nobility shall be granted.' I have no doubt there are some people in the United States today who regret that that was ever put into the Constitution of the United States. They think they have the blood of nobility running in their veins, and they are entitled to distinction, and this country is full of people who think it a great thing to marry somebody over in Europe who has a title. In nine cases out of ten those women get caught; in nine cases out of ten they marry a fellow who never did a stroke of honest work in his life. A good many people here in this country—they do love and bow and scrape before the counts and viscounts and dukes that come here. A 'young squirt' from Europe—he can come here and create a greater sensation than a Bismarck would have done in his lifetime."

I recall one afternoon, when the class caught a glimpse of the jurist's nature that is perhaps not often revealed. He was speaking of the appropriations made by Congress for the national cemetery, and told us that while there was perhaps no express clause in the Constitution authorizing such an expenditure of the public money, no one could question the appropriation for such a cause. While he spoke of the boys in blue and those in gray who slept there, and for the beautifying of whose graves Congress has made the great national cemetery one of the most beautiful to be found, his eyes filled with tears and he was scarcely able to finish his remarks. Perhaps some tender memory had been awakened by this line of thought, for the jurist was a gallant soldier, both as a private and as a ranking officer; some friend may rest there, or—it may have been—but we cannot tell.

Almost at The Top

Perhaps nothing is more representative of his talks in the classroom than the closing portion of his last lecture to the boys on constitutional law in the term just closed:

"I want to say to you gentlemen that I have enjoyed these lectures; that I have enjoyed being here during this term, that I might talk to you upon questions of constitutional law. I esteem it a great privilege to have been here. I have had the purpose of arousing in you, as far as I could, an earnest desire to understand the Constitution of your country; to inculcate in you a desire to read about it. Upon it the lawyers of this country depend today a great deal. They are really the instructors of the people of this country as to what the Constitution of the United States means, what are their duties under the Constitution, and what are their rights under the Constitution. I think every year, notwithstanding the complaints of some, the people of this country are coming to get a larger view of their country, of the Constitution, and of the value of the Constitution. It looks sometimes when you read the newspapers that it is all going to the dogs; that all sorts of corruption prevails. Well, corruption is being unearthed, and the fact that it is unearthed and the fact that it is attracting the attention of the people of the country is evidence, not that we are getting worse, but that the public conscience is alive, that they want to know about these things, that they want to apply remedies. I think today our country is better off than it ever was, that our people have higher ideas of public duties than they ever had, and we are on the road to even better things.

"A story is told which I am sure is substantially true, about the battle of Lookout Mountain. You have all read about that battle. Lookout is a very high mountain back of Chattanooga, upon which, in the civil war, there was encamped a large number of Confederate troops. The Union troops were in Chattanooga and finally got an order from General Grant to advance. A part of the troops advanced up Lookout Mountain, the precipitous place upon which the Confederates were posted. A squad of men under the command of a Kentucky lieutenant was in front of the Union troops. When he got nearly to the top a Confederate bullet struck him and he fell, but he lived long enough to exclaim "Almost at the top."

"I think I can say (the jurist continued in a broken voice) that our country under this Constitution—that we are—almost at the top, and we can look abroad upon a united, happy people, who have a great future."

It has been the purpose of this brief sketch to let you know Justice Harlan from a new standpoint, not from that of his frequent biographers, but from the truest and most impartial point of view that there is—that of a student body. To the occasional visitor to the class of constitutional law at George Washington, it may seem that the frequent demonstrations—the stamping upon the floor and the laughter—that occur during Justice Harlan's lectures and quizzes, are just a trifle disrespectful to the venerable instructor, but such a person could not be well acquainted with university conditions. Behind all the demonstration, even though it may at times seem rude to the outsider—the judge knows better, however—behind all the laughter and the lively applause that seem sometimes a trifle out of place, there lies a deep respect for the great old man on the platform. A bond of sympathy exists between instructor and student that will never, even in later years, be broken; and, in addition, there is a yet stronger cord binding together the old and the young, more lasting than respect, more enduring than a mere bond of sympathy, and that is that we—the fellows—love the justice, and there isn't the slightest possibility of a doubt but that the justice loves us—"his boys."

President Roosevelt's Uncle, the Father of American Fish Culture---By Dexter Marshall

(Continued from First Page.)

fish we hatched out were not. All the experiments we made were important, for they all taught us something.

"I remember very well, too, that I was then especially impressed with Green's unquenchable curiosity about everything pertaining to fishes, and his everlasting patience. I tried as many experiments as he did, but I didn't get results.

"I told him one day that he kept me wondering how he did it. I was so infernally unlucky all the time that I sometimes felt almost discouraged, while all he had to do was to try, and the result he looked for followed.

"'That's all very well,' growled Green in his deep gruff voice when I spoke about it; 'it's forty failures to one success with me.'

"Then I understood his methods better. He would try over and over and over and over. If one way didn't work he'd take up another and keep everlastingly at it till he won success.

"Green had to exercise his patience to the full when it came to feeding the trout. They find their natural food in the streams in which they live, but, of course, it wouldn't be possible to furnish the thousands of young fish in a hatchery with the insects and other things they subsist on in the wild state. For some time after hatching they draw their sustenance from the egg sacks, but when these are exhausted the fish must be fed, and well fed, too, in every sense of the word. For, while trout are very voracious they are also the most delicate fish, with possibly one exception, that I know anything about.

"Well, Green tried food after food, with ailing and dead trout as the result, but finally he succeeded, of course. We both had a great scare soon after we began to experiment with the famous Rainbow trout of California—a real trout, by the way, and not of the same species as the brook trout, though supposed to be.

"The Rainbow trout are as hardy as the brook trout are delicate, and as quarrelsome among themselves as the brook trout are quiet. In the spawning season they will fight with the utmost fury, and the first batch of the species we had to do with showed their disposition in that direction one day in a way that disheartened us.

"After the fight was over they were lying about in all conditions of exhaustion. Gills were torn, fins damaged and great patches of skin ripped off from many of the finest specimens we had. We thought the injured ones—and those unhurt were very few—were all as good as dead and we were quite disheartened for the moment. But, bless you, in a day or two they were clearly recovered and they all got well. They are as hardy as they are pugnacious.

"One of the things Green learned early was the necessity of maintaining perfect cleanliness with the fish. Dirt is as bad for them as it is for people, and not all the men who were employed by the commission could seem to learn that lesson. One result of dirt is a disorder which we called 'the blue swelling' for lack of a better name. I remember the loss of 10,000 rainbow trout from that cause. The only treatment we knew of that would help blue swelling was to put a little salt in the water they were kept in, and it didn't work that time.

"It's curious about the development of fish. As I have said the finest brook trout in the world are to be found in the waters of the Caledonia creek, and its great spring source is the best place in the world to hatch them, but they do not grow as rapidly there as they do in the waters of Long Island. In the same time after they are hatched the fish will gain in weight at least a quarter more rapidly there. The water at Caledonia is hard—full of lime—while there is no lime in the Long Island waters; that is the only reason for the difference that I can think of, but I don't know that it has anything to do with it.

"The brook trout of the Long Island streams used to be the biggest I ever saw. When I was only a small boy—and that's a long time ago, now—I used to go fishing at Smithtown, to the north of our home. The best fishing ground was a big millpond owned by Aaron S. Vail. He used to charge well for the privilege, but it was worth it. In those days we never kept a brook trout that weighed less than a pound, and if you have ever cast a fly for trout you know from that that the fishing was good.

"It isn't so good any more, even in Vail's old pond. That pond, by the way, is near the property of the Wyandanch Fishing Club, famous today as a millionaire fishing resort. I don't fish any more, of course, but I go there sometimes in the auto to recall the old times. Daniel Webster used to fish in that pond nearly every spring, and he used to stay at the Vail house. Pretty nearly everybody who can remember those old days is gone now, but the fact that Webster used to fish there is kept in mind by a sign on the house.

"Now, Vail is dead, and so are all the members of his family. The last time I was there I was grieved to see that the house is falling to pieces from sheer neglect. There's a hole in the roof just over the room where I saw Webster after a day's fishing many times when a boy. Under the hole in the roof there's a hole in the floor—the whole place is going down.

"No, I never fished with Webster—I was too small. Vail used to take him out in the boat, and used to tell us how Webster would study his speeches while on the water. Later Vail used to take me out in the boat. He was a good fisherman. He taught me to fish, and he was the most enthusiastic admirer I ever had. He used to tell me how Webster fished.

"Webster was a gross fisherman—he used a big fly. The biggest part of his fishing was done in fifteen to thirty feet of water, and, curiously enough, the days of his fishing were about the last of the big trout at Smithtown.

"Vail has told me often how Webster liked to study his speeches while fishing. He used to do what Bourke Cockran does now, I believe—think up some strong sounding sentence, without any special reference to its application to any subject, and then polish it up, add a word here and substitute another there till it was just right. When he was out on the Vail pond fishing he would rehearse such sentences—try them out and see how they sounded, and his big voice would roll over the water as he declaimed.

"After he had tried out such a sentence he would pack it away in the back of his head ready for use in whatever speech it would fit into as a sort of climax. Sometimes a trout would take his fly just when he was in the midst of rehearsing a long speech on some great question—for he used to practice on complete addresses as well as specialy constructed sentences—and then there would be fun.

"I often fished with grasshoppers when I was a boy—yes, and I used sometimes to use the old-fashioned short horsehair lines, made by twisting the horsehairs together with two quills. Sometimes I fished in clear, shallow, narrow brooks, where I had to sneak up crawling, for fear that the fish would see me, and drop the wiggling grasshopper in just the right spot. Maybe I'd take a walk along the stream one day and see a big trout lying quietly in the cool, clear water between two clumps of weeds. The fish would see me as soon as I'd see him and be away in a twinkling. It would be no use to try for him then—he'd had his scare. But the next day he'd be pretty sure to be in his favorite spot and I'd sneak up, get in between the two clumps of weeds without scaring him, and get him.

"But that isn't the story of the development of fish culture. Our work at the Caledonia and the other hatcheries of the New York Fish Commission attracted attention all over the country, and laws establishing similar commissions have been passed in nearly half the States. I was invited to appear before various Legislatures and to furnish the records of our work to others. We sent Green all over the country to study all sorts of fish, and the good work went on rapidly.

"In 1872, while I was a member of Congress, Garfield introduced a bill for the establishment of the National Fish Commission, and it went through with a rush. Immediately after its passage, Spencer F. Baird was made the head of the commission, which was attached to the Smithsonian Institution. That was in 1872. Baird was a true sportsman, a scientist, and devoted to his work. He started the commission, now of such far-reaching importance, in the right way. With its wider field and greater resources, the United States Fish Commission has been able to do many things, of course, that no State commission could do."

The initial fish cultural operations of Roosevelt and Green were devoted mainly to the brook trout, but it occupies a minor place in the operations of the Government Fish Commission, the lake trout, the cisco, perch, bass, pollock, and lobster receiving the greater amount of attention. Yet about ten million and a half brook trout fry, "fingerlings," yearlings, and adult fish, were distributed last year, including 80,000 eggs for Argentina, so that brook trout may eventually be found in the streams of South America.

The habitat of the brook trout in this country has been extended by the commission also, notably in Colorado. Its moutain streams were long thought to be especially adapted to the brook trout. It is now widely distributed over the State, and it exists there in greater numbers perhaps than in any other State. The Colorado streams, in fact, have become the chief source of supply for wild brook trout eggs.

Shad and striped bass from the Atlantic seaboard have been introduced upon the Pacific coast in such numbers that more than 4,000,000 pounds of these two varieties of fish are now caught annually on the western coast, the returns to the fishermen being about $200,000. The introduction of Pacific coast fish on the Atlantic seaboard, however, has not been equally successful, the attempt to acclimate the Chinook salmon in eastern waters having failed completely. This year attempts are being made to introduce the silver salmon and the humpback salmon. On the other hand the steelhead trout of the Pacific coast streams and lakes introduced into Lake Superior have fared as well in their new home as the brook trout in Colorado. The introduction having been made later, however, the steelheads are not yet an important element in the Superior catch. More pike perch were distributed last year than fish of any other variety, the number being only about 100,000 less than 400,000,000. Next came shad, of which about 330,000,000 of eggs and fry were distributed.

The grand total of 1,759,475,000 fry and fish distributed were divided among thirty-six varieties, most of them being fresh water fish, though sea fish are by no means neglected. Massachusetts leads in the distribution, having received more than 370,000,000; Ohio comes next with more than 362,000,000; Delaware with 2,550 stands last on the list, but every State and Territory except Alaska was included in the distribution last year and this year Alaska also is being included.

Besides the brook trout eggs sent to Argentina nearly half a million eggs of other varieties were sent to that country, more than 1,300,000 to New Zealand and smaller quantities to individual applicants in France and Germany.

In 1905 the bureau's distribution cars were hauled 82,749 miles, while detached distribution messengers traveled nearly 300,000 miles, an increase of 26 per cent in car mileage and 188 in messenger mileage. The bureau's department of biological investigations and experiments is among its most important activities and the cordial co-operation of the Canadian Fish Commission with that of the United States is of great value to all concerned. It has led to an enormous increase of value in the fisheries of the Great Lakes, which is only one of the highly important results coming from the acquaintance between Robert B. Roosevelt and Seth Green, casually begun at a meeting of the New York State Sportsman's Association in the middle sixties.

READY FOR OMELET USE.

It is reported that a hen in Delaware, Ohio, is laying eggs turned inside out. The ouside covering of the product of the extraordinary hen is said to be the thin white skin usually found just under the shell. The white of the egg comes next, then comes the regulation shell surrounding the yolk. This shell is of exactly the same formation as the exterior covering of the ordinary egg.

No affidavits.—Detroit News.